



ARIZONA STATE SENATE
Fifty-Fifth Legislature, Second Regular Session

AMENDED
FACT SHEET FOR S.B. 1379

unlawful transporting; harboring; unlawful aliens

Purpose

Increases, from a class 1 misdemeanor to a class 6 felony, the penalty for unlawfully transporting an alien whose presence in the United States is illegal (undocumented immigrant). Increases, from a class 4 felony to a class 6 felony, the penalty for unlawfully transporting 2 or more, rather than 10 or more, undocumented immigrants.

Background

A person who unlawfully transports, moves, conceals, harbors or shields undocumented immigrants is guilty of a class 1 misdemeanor and is subject to a fine of at least \$1,000, except that a violation involving 10 or more undocumented immigrants is a class 6 felony and the person is subject to a fine of at least \$1,000 for each undocumented immigrant who is involved ([A.R.S. § 13-2929](#)).

In *Valle del Sol Inc. v. Whiting*, the Ninth Circuit U.S. Court of Appeals affirmed a preliminary injunction against A.R.S. § 13-2929 granted by the U.S. District Court of Arizona. In its ruling, the court concluded that the statute as written is void for vagueness under the Due Process Clause, and that the statute is preempted by federal law and therefore invalid under the Supremacy Clause (*Valle del Sol Inc. v. Whiting*, 732 F.3d 1006 (9th Cir. 2013)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Increases, from a class 1 misdemeanor to a class 6 felony, the penalty for unlawful transporting, moving, concealing, harboring or shielding of undocumented immigrants.
2. Increases, from a class 6 felony to a class 4 felony, the penalty for unlawfully transporting, moving, concealing, harboring or shielding of 2 or more, rather than 10 or more, undocumented immigrants.
3. Specifies that a person must be in violation of a criminal law or statute, rather than a criminal offense, to be in violation of unlawfully transporting, moving, concealing, harboring or shielding of undocumented immigrants.
4. Makes technical changes.
5. Becomes effective on the general effective date.

Amendment Adopted by Committee:

- Reinserts the requirement for a person to be in violation of a criminal law or statute, rather than a criminal offense, to be in violation of unlawfully transporting, moving, concealing, harboring or shielding of undocumented immigrants.

Senate action:

JUD 2/10/22 DPA 5-3-0

Prepared by Senate Research

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ZD/HK/sr